

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

ROBERT PATRICK LEWIS,
PHILIP A. LUELSDORFF and
1AP, INC.,

plaintiffs,

v.

SETH ABRAMSON,

defendant.

Case No. 1:22-cv-00126-PB

**DEFENDANT’S MOTION TO DISMISS
FOR FAILURE TO STATE A CLAIM**

Defendant Seth Abramson (“Abramson”) moves to dismiss for failure to state a claim the Complaint (Doc. No. 1) filed by plaintiffs Robert Patrick Lewis (“Lewis”), Philip A. Luelsdorff (“Luelsdorff”) and 1AP, Inc. (“1AP”) (collectively “Plaintiffs”).

The Complaint alleges that thirty-six statements (“Statements”) are defamatory (Count I). Complaint, ¶ 2 (itemizing the Statements at pp. 4-13). The Statements also form the basis of Plaintiffs’ additional claims for defamation by implication (Count II), false light invasion of privacy (Count III) and civil conspiracy (Count IV).

The Complaint must be dismissed for failure to state a claim because Abramson did not publish some of the Statements, Plaintiffs do not allege falsity with regard to other of the Statements and the remaining Statements are First Amendment protected speech. Furthermore, as public or limited public figures who have inserted themselves into events of public concern, the Complaint also must be dismissed because Plaintiffs have failed to allege sufficient facts to plausibly support a clear and convincing finding of actual malice.

For these reasons and the reasons in Abramson's accompanying Memorandum of Law with supporting exhibits, Plaintiffs' claims for defamation, defamation by implication, false light invasion of privacy and civil conspiracy must be dismissed for failure to state a claim.

WHEREFORE, Abramson respectfully requests that the Court:

- A. Dismiss all of Plaintiffs' claims for failure to state a claim;
- B. Award Abramson his reasonable attorney's fees and costs associated with responding to Plaintiffs' claims as allowed by decisional and statutory law; and
- C. Grant such further relief as is necessary and just.

Respectfully submitted,

On behalf of defendant Seth Abramson,

By his Attorneys,

SHAHEEN & GORDON, P. A.

July 18, 2022

/s/ Timothy J. McLaughlin
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CERTIFICATE OF SERVICE

I, Timothy J. McLaughlin, certify that on this date, a copy of the foregoing filing was served upon all counsel of record via the Court's electronic filing and service system.

/s/ Timothy J. McLaughlin
Timothy J. McLaughlin